

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD ROY GIBBONS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION, et al.,

Defendants.

CASE NO. C15-5444 BHS

ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED *IN*
FORMA PAUPERIS AND
DISMISSING COMPLAINT

This matter comes before the Court on Plaintiff Todd Roy Gibbons's ("Gibbons") motion to proceed *in forma pauperis* (Dkt. 1), proposed complaint (Dkt. 1, Exh. 1), and motion to supplement complaint (Dkt. 2).

On June 25, 2015, Gibbons filed the motion to proceed *in forma pauperis* and the proposed complaint. In his complaint, Gibbons cites a previous case filed in this district (*Gibbons v. Honorable Bob Ferguso, et al.*, Cause No. 13-5189-BHS) and seeks to consolidate three closed cases: *Elkins, et al. v. Dreyfus*, Cause No. 10-1366 (W.D. Wash.), *Bennett v. Astrue*, Cause No. 11-5224 (W.D. Wash.), and *Gibbons v. McKenna*,

1 Cause No. 12-5793 (W.D. Wash). Dkt. 1, Exh. 1. Although Gibbons claims that he was
2 improperly denied government benefits, he concedes in his complaint that all of his
3 claims have been adjudicated. *Id.* In this new case, he seeks to reopen those cases and
4 relitigate his claims. *Id.*

5 The district court may permit indigent litigants to proceed *in forma pauperis* upon
6 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the
7 “privilege of pleading *in forma pauperis* . . . in civil actions for damages should be
8 allowed only in exceptional circumstances.” *Wilborn v. Escalderon*, 789 F.2d 1328 (9th
9 Cir. 1986). Moreover, the court has broad discretion in denying an application to proceed
10 *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied* 375
11 U.S. 845 (1963).

12 A federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P. 12(b)(6) when
13 it is clear that the plaintiff has not stated a claim upon which relief may be granted. *See*
14 *Omar v. Sea Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may
15 dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) Such a dismissal may be
16 made without notice where the claimant cannot possibly win relief.”).

17 In this case, Gibbons fails to present new claims for relief. Gibbons essentially
18 seeks to relitigate a *sua sponte* dismissal that was upheld on appeal (*see Gibbons v.*
19 *Honorable Bob Ferguso, et al.*, Cause No. 13-5189-BHS, Dkt. 16 (W.D. Wash April 16,
20 2015) as well as three cases that have been closed for years. The Court does not have
21 jurisdiction to entertain such claims. Therefore, the Court **DENIES** Gibbons’s motion to
22 proceed *in forma pauperis* and **DISMISSES** Gibbons’s complaint.

1 **IT IS SO ORDERED.**

2 Dated this 16th day of July, 2015.

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5 BENJAMIN H. SETTLE
6 United States District Judge
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